



## **Arlington Conservation Commission**

Date: July 25, 2019

Time: 7:30pm

Location: Second floor conference room, Town Hall Annex  
730 Massachusetts Ave, Arlington, MA

### **Minutes**

*Attendance: Commission Members David White, Susan Chapnick, Nathaniel Stevens, Chuck Tirone, Mike Nonni, and Pam Heidell; and Conservation Agent Emily Sullivan. Also present were David Kaplan, Anne Randolph, Suzanne Owayda, John Rockwood, June Rutkowski, Rick Chadwick, Celia Markey, Cori Beckwith, Jane Howard, Lauren Caputo, Brad Barber, Beth Melofchik, Alice Trexler, Dan Klebanov, Downing Cless, Scott Seaver, Vicki Ford, Mary Trudeau, Patricia Worden, Scott Meadows, Colin Blair, Jo Anne Preston, Peter Musial, Linda Guttman, Lisa Fredman.*

*Associate Commissioner Cathy Garnett was not present.*

N. Stevens announced that the meeting would be audio recorded.

### **Administrative Items**

#### **07/11/2019 Meeting Minutes**

The Commission discussed edits to the draft minutes. D. White motioned to approve the minutes as edited, P. Heidell seconded, all were in favor, motion approved.

#### **Discuss Process for Electing New Chair and Possible Vote**

The Commission continued its conversation regarding the processing to elect a new chair. P. Heidell stated that she likes the Chair and Vice Chair structure better than the Co-Chair structure because it is less likely to infringe on Open Meeting Law. N. Stevens described his functions as Chair and stated that it usually requires 1.5 hours of additional work per week. N. Stevens also described how the Chair manages the Conservation Agent. The Commission agreed that there should be a mechanism for strategic succession, but no decision was made on what that mechanism should be (e.g. Co-Chairs or Chair and Vice Chair). The conversation will be continued to another meeting.

**Spy Pond Hatch Invoice #12 (\$6,231.80)**

The Commission reviewed the \$6,231.80 invoice. C. Tirone motioned to approve the invoice, D. White seconded, all were in favor, motion approved.

**Spy Pond Edge and Erosion Control Project**

E. Sullivan stated that the planting and shoreline stabilization work along Spy Pond Park was nearly complete. The planting and shoreline stabilization work along Scannell Field and next to the Boys and Girls Club has just begun and will continue through September. Half of the stone dust path through Spy Pond Park has been replaced with porous pavement. The remaining stone dust path will be replaced with porous pavement at the end of August.

**Wellington Park and Mill Brook Project**

E. Sullivan stated that phase two of the Wellington Park project is almost complete. The only remaining components include installing three educational signs and reseeding the lawn area in September. E. Sullivan will work with the Mystic River Watershed Association to begin phase three of the project, which will complete a loop through the park, opening up access to the other bank of Mill Brook. Phase three was awarded \$100,000 through the Community Development Block Grant for design and permitting.

**Conservation Commission Candidates**

N. Stevens introduced Dave Kaplan, a resident interested in filling an open position with the Conservation Commission. Mr. Kaplan had sent an application to the Town Manager.

All Commissioners introduced themselves, stated their professional background and its relevance to the Commission's work, and how long they have served on the Commission. D. Kaplan introduced himself, and stated that his professional background, which included working for the City of Cambridge as the Watershed Manager, working for the Charles River Watershed as an Environmental Scientist, and working for Massachusetts Water Resources Authority as a Water Quality Analyst. D. Kaplan has also served on the Cambridge Conservation Commission. P. Heidell asked D. Kaplan if he had any stormwater experience, which D. Kaplan stated that he does. D. Kaplan stated that he has experience in grant writing/management, infrastructure management, invasive species management, water quality, watershed management, and stormwater analysis and review.

N. Stevens thanked D. Kaplan for attending the meeting. N. Stevens stated that there were several candidates interested in joining the Commission, and that all candidates had now been interviewed by the Commission. The Commission will deliberate the candidates at next meeting, and make a recommendation to the Town Manager about who he should appoint, subject to the Select Board's approval.

**Notice of Intent: 61 Sunnyside Avenue (continued from 6/6/2019)**

DEP File Number: 091-0311

Documents Reviewed:

- 1) NOI Package, dated 5/22/2019
- 2) 61 Sunnyside Avenue Letter of Map Amendment from FEMA, dated 6/16/2011
- 3) 61 Sunnyside Existing and Proposed Conditions Plan Set
- 4) Revised NOI and Narrative, dated 7/8/2019
- 5) Revised Proposed Plot Plan, not dated
- 6) Certified Plot Plan, dated 7/2/2019, stamped by Richard J. Mede PLS

Resource Areas:

- 1) Alewife Brook
- 2) Floodplain, Floodway
- 3) Bordering Land Subject to Flooding
- 4) 100-Foot Wetlands Buffer Zone
- 5) 200-Foot Riverfront Area

S. Chapnick recused herself from this matter because the Applicant is a family friend. S. Chapnick has been helping the Applicant understand the local Bylaw and Wetland Regulations in order to provide a complete application compliant with these regulations.

N. Stevens and C. Tirone submitted Mullin Rule Certifications, making them eligible to deliberate and vote on the project although they had missed hearings during which the project was presented. N. Stevens and C. Tirone listened to the audio recordings of the meetings they missed, qualifying them for the Mullin Rule.

E. Sullivan and N. Stevens stated that although the public hearing was closed during the last meeting (July 11, 2019), the Massachusetts Department of Environmental Protection had not yet assigned the project a file number. The Commission agreed to continue with the deliberation without a file number, stating that once the file number was assigned the Order of Conditions would be issued.

The Commission deliberated and agreed to apply the following conditions to the project's approval Order of Conditions:

- 1) This project shall not increase the water surface in the floodplain. At the project's completion, the site must be at the existing grade or less.
- 2) The 1% Annual Flood Chance Hazard Floodplain boundary shall be staked prior to construction and the pre-construction meeting with the Conservation Agent. The Conservation Agent shall review the staking during the pre-construction meeting. The floodplain boundary stakes shall remain intact for the entire duration of the project.
- 3) The approved patio shall not extend 10 feet beyond the existing enclosed porch and shall not extend into the floodplain.

- 4) The approved rain barrels shall be maintained per the manufacturer's Operation and Maintenance Specifications. Rain barrels shown on the project plans shall not be removed.
- 5) The porous pavers shall be maintained per the manufacturer's Operation and Maintenance Specifications. At minimum, the porous pavers shall be maintained as follows: no winter sanding is permitted on the driveway or patio, and annual vacuum sweeping.

D. White motioned to approve the NOI with the discussed conditions under the Wetlands Protection Act and Arlington Wetlands Protection Bylaw, M. Nonni seconded, all were in favor, motion approved.

**Request for Determination of Applicability: 15 Parker Road**

No DEP File Number because RDA

Documents Reviewed:

- 1) RDA Package, dated 6/26/2019
- 2) Landscape Improvements Site Plan, certified by John C. McDonnell

Resource Areas:

- 1) Upper Mystic Lake
- 2) 1% Annual Chance Flood Hazard Floodplain
- 3) Bordering Land Subject to Flooding
- 4) 100-Foot Wetlands Buffer Zone

S. Owayda presented the project proposal, which includes hardscaping and landscaping the backyard.

S. Chapnick noted that the proposed reduction in impervious surface was inconsistent between the project narrative and application form. S. Chapnick asked whether the proposed walls were impervious. S. Owayda stated that they were impervious. S. Chapnick asked the other Commissioners if new walls could be built in the floodplain. P. Heidell stated that the Applicant could get a Certificate of Elevation and apply for a Letter of Map Amendment with the Federal Emergency Management Agency to certify that the property is outside the floodplain and therefore not required to adhere to floodplain regulations.

N. Stevens stated that new impervious walls may need to be reviewed under a Notice of Intent rather than a Request for Determination of Applicability. N. Stevens also recommended that rather than raised bed walls, have flat beds thereby not infringing on the flood storage capacity of the site.

C. Tirone requested that elevations be added to the propose site plan given that the site is in the floodplain.

M. Nonni asked if the proposed flag stone removal would change permeability and result in more flood storage. C. Tirone stated that that would only be true if lawn was removed.

P. Heidell noted that even though the Applicant does not want to change the proposed hardscape and landscape design, the local regulations require that all project proposals consider climate change implications. P. Heidell also asked if an RDA was appropriate for this work since it is in the floodplain. N. Stevens said yes, if a Letter of Map Amendment (LOMA) certifies the property is outside of the floodplain.

The applicant requested information on applying for the LOMA. E. Sullivan will get the applicant information on getting a survey and applying for LOMA. D. White moved to continue the hearing to the August 15th meeting, C. Tirone seconded, all were in favor, motion approved.

**Notice of Intent: 36 Peabody Road (continued from 6/20/2019)**

No DEP File Number assigned yet

The Applicant requested that the hearing be continued to the August 1st, 2019 meeting.

D. White moved to continue the hearing to the August 1st meeting, C. Tirone seconded, all were in favor, motion approved.

**Notice of Intent: 34 Dudley Street**

DEP File Number: 091-0309

Documents Reviewed:

- 1) NOI, dated 6/19/2019
- 2) NOI Packet, dated 6/19/2019
- 3) 34 Dudley Street Existing Conditions Plan, dated 5/23/2019, stamped by Joseph R. Porter PLS
- 4) 34 Dudley Street Proposed Conditions Plan, dated 5/5/2019, revised 5/18/2019, stamped by Joseph R. Porter PLS and Marc Besio PE

Resource Areas:

- 1) Mill Brook
- 2) 100-Foot Wetlands Buffer Zone
- 3) 200-Foot Riverfront Area

The Applicant's Representative, J. Rockwood, presented the proposed project. The project includes removing an existing building and concrete loading dock at an autobody shop, and replacing it with a building that is exactly the same size, pushed 5-feet forward away from the resource area.

J. Rockwood summarized the site visit that the Commissioners had onsite on July 16, 2019.

J. Rockwood stated that at the site visit, some Commissioners thought the area behind the building, where proposed mitigation plantings are located, was too shady for the plantings. J. Rockwood stated that the Applicant would prune the Norway Maples trees shading the area to make it sunnier. M. Nonni stated that pruning the trees would be sufficient to foster the proposed plantings. M. Nonni also noted that the proposed plantings were shade tolerant and appropriate for the area.

The Commission deliberated and agreed to apply the following conditions to the project's approval Order of Conditions:

- 1) The proposed permanent dumpster onsite will be enclosed per the approved site plan and shall be protected by bollards to prevent movement of dumpster during servicing.
- 2) The property's parking lot shall be swept annually during the spring to remove any sand and salt deposited onsite during winter maintenance.
- 3) All plantings planted through this project shall be maintained for three years. A survival rate of at least 75% must be maintained for the approved plantings. A monitoring report shall be submitted annually on November 1, 2019, 2020, 2021.
- 4) All existing and approved stormwater systems shall be operated and maintained per the Operation and Maintenance Plan submitted with the Notice of Intent, prepared by VTP Associates Inc.

S. Chapnick motioned to close the hearing. P. Heidell seconded the motion, all were in favor, motion passed.

S. Chapnick motioned to approve the NOI with the discussed conditions under the Wetlands Protection Act and Arlington Wetlands Protection Bylaw, D. White seconded, all were in favor, motion approved.

#### **Notice of Intent: Spy Pond Sand Bar Dredging**

DEP File Number 091-0310

Documents Reviewed:

- 1) NOI Package, dated 7/03/2019
- 2) NOI Plan set, prepared by MassDOT and VHB, dated 7/03/2019
- 3) Notice of Intent WPA Form 3, dated 7/03/2019, revised 7/16/2019

Resource Areas:

- 1) Spy Pond
- 2) Bordering Vegetated Wetlands
- 3) 100-Foot Adjacent Upland Wetland Resource Area (AURA) under the Arlington Wetland regulations

L. Caputo and B. Cordeiro presented the project proposal. The project proposes dredging the existing sand bar in Spy Pond, along Route 2 through hydraulic dredging. The sand bar is the result of sand and sediment deposition, primarily from MassDOT's historic treatment of Route 2 with sand in the winter. MassDOT no longer sands Route 2 during winter maintenance.

Given that a rare species, the Engelmann's Umbrella Sedge, is found along the banks of Spy Pond, MassDOT will work with MassWildlife's Natural Heritage and Endangered Species Program to ensure compliance with state regulations.

Dredging would remove approximately 800 cubic yards of sediment, and restore the pond's floor to an elevation of -1ft, removing 3 to 4-feet of sediment across the sand bar. The project proposes dewatering the sediment in geotubes staged along the Route 2 Walking Path, running along the pond's southwestern edge. This path is within MassDOT's right-of-way. The path would remain open during the project, which is tentatively scheduled for late fall 2019 and into the winter. The dewatered sediment will be tested, and sent to an appropriate disposal facility.

C. Tirone asked if any vegetation would be removed through this project. L. Caputo said yes, but MassDOT and VHB need to conduct a vegetation survey to determine the extent of removal and species that would need to be removed. N. Stevens asked when the survey would be complete. L. Caputo stated that it would be complete by mid-August. B. Cordeiro stated that a proposed replanting plan will be submitted once the survey is complete.

S. Chapnick asked if the dewatering would occur on pervious or impervious surfaces. L. Caputo stated that the geotubes would be staged on a poly-liner, and therefore on an impervious surface. S. Chapnick recommended conducting a leachate test to better understand the sediment's contamination levels. P. Heidell recommended developing standard operating procedures for other permits that may be needed (e.g. if sediment is hazardous and needs specialized disposal).

P. Heidell noted that the NOI states that the dredging may be hydraulic or mechanical. P. Heidell asked how the method will be selected and when the project's construction specifications will be available for Commission review. L. Caputo stated that the project's bid will be written to favor hydraulic dredging, and that the specifications will be available in September. The Commission also discussed that it can add a special condition to the Order of Conditions if the project is approved to require hydraulic dredging to maintain lower turbidity and less impact on the resource area.

N. Stevens stated that there have been many volunteer efforts to enhance the Route 2 Path and the banks along the path. Most recently, there was a large tree-planting effort in the spring. N. Stevens urged MassDOT to be considerate of the volunteers' dedication to improving the project site area.

C. Tirone what site restoration will be after the dredging and dewatering is complete. B. Cordeiro stated that MassDOT will need to use light equipment onsite because there is a gasline within the limit of work. Trucks will be staged by the geotubes, the geotubes will be opened and sediment deposited straight into the trucks for transportation to the disposal facility. Since the sediment will be slightly wet, there is little dust risk.

P. Heidell asked if there would be regular environmental monitoring of the site. VHB will be the environmental monitors, but the frequency of monitoring has yet to be determined.

L. Caputo stated that the dredging will not be particularly loud for abutting neighbors, and that this project will obey the Town's construction hours. The actual dredging will only take one week's time, though the dewatering operation will take a few months, particularly if the work is scheduled for the late fall/winter.

#### Public Comments

B. Eykamp stated his support for this project. B. Eykamp also mentioned several concerns, including: managing the lead contamination in the sediment, any adverse impacts to the path that has been the focus of many volunteer efforts, the curtain walls next to the outfall that MassDOT is proposing to replace, and the success of the project particularly because B. Eykamp has witnessed that the swales built along the pond are ineffective. MassDOT stated that there would be a public meeting for this project, scheduled for sometime in September when the issues B. Eykamp outlined would be further addressed.

B. Barber articulated the importance of the Route 2 Path and recommended moving the dewatering operation to the other side of the path, closer to Route 2 than the pond. B. Barber also asked if it would be possible to stage the project from the Kelwyn Manor boat ramp. B. Cordeiro stated that that would be difficult to do given eminent domain complications.

J. Howard asked for clarification on the area and extent of dredging.

The Commission requested six additional items from MassDOT and VHB, including:

- 1) An updated project survey
- 2) A vegetation survey of the project site
- 3) Feasibility analysis and design of stacked geotubes to limit the intrusion onto the Route 2 Path
- 4) Feasibility analysis of removing the fence along Route 2 and moving the geotubes to the other side of the Route 2 Path
- 5) Water and sediment quality specifications
- 6) Updated site photos



S. Chapnick motioned to continue the public hearing to the August 15th, 2019 Conservation Commission meeting and requested the six additional items, M. Nonni seconded, all were in favor, motion approved.

**Notice of Intent: 47 Spy Pond Lane Lot 1/A (continued from 6/20/2019)**

No DEP File Number because only being reviewed under Local Bylaw

Documents Reviewed:

- 4) NOI Package, dated 6/11/2019
- 5) Drainage Analysis, conducted by Alan Engineering LLC, dated 6/28/2019
- 6) Planting Plan, stamped by James Richard Keenan, dated 11/7/2018, revised 6/11/2019
- 7) Proposed Site Plan, stamped by James Richard Keenan, dated 11/7/2019, revised 6/11/2019
- 8) Cross Section of 47 Spy Pond Lane Lot 1/A, dated 6/10/2019
- 9) 47 Spy Pond Lane Stormwater Review by Arlington Engineering Division, signed by Wayne Chouinard PE, dated 7/9/2019

Resource Areas:

- 4) Spy Pond
- 5) Bordering Vegetated Wetlands
- 6) 100-Foot Adjacent Upland Wetland Resource Area (AURA) under the Arlington Wetland regulations

M. Trudeau presented the project proposal, which is the fourth NOI for this project on Lot 1/A. M.

During the 7/11/2019 hearing, the only missing information was a stormwater review of the project by the Town Engineer. W. Chouinard reviewed the project, and stated that the submitted hydrologic analysis was suitable and that proper implementation of the proposed stormwater units would successfully mitigate any runoff modifications caused by the project. W. Chouinard also submitted two pages of comments on the stormwater plans, requesting additional labels, notes, and details. W. Chouinard stated that since the engineer who created the plan has never worked in Arlington before, the Engineering Division provided a lot of feedback regarding the formatting standards of the Engineering Division. The Commission agreed that should this proposal be approved, that the engineer will need to submit a revised stormwater plan with W. Chouinard's request for additional items.

The Commission discussed a letter submitted by A. Trexler regarding the Memo Town Counsel submitted to the Commission regarding alternatives analysis. The Commission acknowledged that it has struggled with its interpretation of the requirements for a suitable alternatives analysis, and requested legal analysis from Town Counsel. N. Stevens noted that the memo is not advocating to replace the local requirements for an alternatives analysis with the state requirements, but provides additional context on alternatives

analysis. The Commission agreed that with the memo, it could more effectively implement its requirement for an alternatives analysis.

#### Public Comments

D. Kelbanov stated that he did not agree with Town Counsel's Memo regarding how an alternatives analysis can and cannot direct the size and scope of a project. D. Kelbanov stated that the Commission should consider requiring that the scope of proposal be reduced if it is financially practicable.

J. Preston stated that the local regulations include a section on climate change, but this proposal does not include climate change considerations. J. Preston emphasized the importance of trees and wetlands, stating that the sycamore tree that is proposed to be removed sequesters approximately 468 pounds of carbon dioxide a year and therefore should not be removed. J. Preston urged the Commission to consider children and grandchild, and the impact of climate change on future generations, when deliberating this proposal.

P. Worden cautioned the Commission that Town Counsel is not an environmental attorney and that the Commission should not be subjected to repeated attempts of developers to maximize profits to the detriment of environmental resource areas. P. Worden thanked the Commission for its continued efforts to protect Spy Pond.

J. Rutkowski stated that Spy Pond needs more protection, and so the sycamore tree should not be removed.

B. Melofchik objected to the proposed removal of the sycamore tree and building within the 100-foot Wetlands Buffer.

V. Ford reiterated the sentiments of J. Rutkowski and B. Melofchik.

L. Guttman reflected on the recent hot temperature and heating warnings, urging the Commission to not approve removing any trees.

N. Stevens thanked everyone for their comments. The Commission considered closing the public hearing and deliberate during the next meeting.

N. Stevens asked S. Chapnick for her comments, since she would not be present at the next meeting for deliberations.

S. Chapnick acknowledged that she was frustrated that the improvements and changes proposed in this most recent proposal compared to the original 2016 NOI were not accomplished sooner. S. Chapnick also acknowledged that the numerous comments from the community helped improve the project. She stated that this was a difficult evaluation; however, the primary decision point was if the project negatively impacted the resource area that the Commission is charged with protecting. The size of the proposed house is only relevant in as much as it impacts the interests of the resource area. S. Chapnick stated that this proposal is an improvement compared to the original NOI submitted in

2016. S. Chapnick stated that in the 2018 Commission denial, the Commission stated that it would reconsider the project proposal if the proposed building was moved back to the existing impervious area line (68-feet from the pond), which the current proposal does (74.4-feet from the pond). S. Chapnick stated that this project offers many more mitigation efforts than previously approved projects around Spy Pond. She gave several examples, including 46 Spy Pond Parkway, 100 Spy Pond Parkway, and 19 Sheraton Park, all approved within the 100-foot buffer to Spy Pond with various mitigations, none of which are as extensive as that proposed for this project. S. Chapnick summarized that as proposed, this project would reduce intrusion into the 100-foot Buffer Zone compared to prior submittals from 2016 through 2018, mitigate more stormwater runoff than needed for the size of the house, which is beneficial for climate change resilience, restore a 25-ft wide vegetated buffer adding habitat value which currently does not exist, and contribute to a larger watershed's stormwater management with the installation of an offsite stormwater unit that will help improve water quality in Spy Pond. S. Chapnick stated that this proposal would improve the resource area and would have no permanent negative impact on the resource area.

S. Seaver requested that the deliberation occur when all voting Commissioners are present to vote. E. Sullivan stated that the next meeting in which all Commissioners will be present is 9/5/2019.

C. Tirone motioned to close the public hearing and continue deliberation to the September 5th, 2019 Conservation Commission meeting, S. Chapnick seconded, all were in favor, motion approved.

Meeting adjourned at 10:40pm.